



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R05-OAR-2009-0805; EPA-R05-OAR-2012-0567; FRL-9974-88-

Region 5]

Air Plan Approval; Indiana; Indiana NSR/PSD; Indiana PM2.5 NSR;

Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; correcting amendment.

SUMMARY: This action corrects codification errors for New Source Review (NSR) and Prevention of Significant Deterioration (PSD) rules in the Indiana State Implementation Plan (SIP).

DATES: This final rule is effective on **[insert date of publication in the Federal Register]**.

FOR FURTHER INFORMATION CONTACT: Paymon Danesh, Environmental Engineer, Air Permits Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-6219, danesh.paymon@epa.gov.

SUPPLEMENTARY INFORMATION: On two separate occasions, the Environmental Protection Agency (EPA) made inadvertent codification errors when it approved revisions to Indiana's SIP. The first of these took place on October 29, 2012 (77 FR 65478). At that time, EPA approved revisions to Indiana's infrastructure

SIP at 326 IAC 2-2-1 and 326 IAC 2-2-4, and amended the list of EPA-approved Indiana regulations at 40 CFR 52.770(c). In the final rule published in the Federal Register on October 29, 2012 (77 FR 65478), on page 65487, EPA mistakenly replaced a September 28, 2011 approval (76 FR 59899) of those Indiana SIP rules in their entirety, instead of adding new entries to the table in 40 CFR 52.770(c) to identify the approval of the updated portions of the rules. Furthermore, this updated portion of 326 IAC 2-2-4 was incorrectly cited at 40 CFR 52.770(c) as 326 IAC 2-2-4(b)(2)(vi), rather than 326 IAC 2-2-4(b)(2)(A)(vi).

The second action took place on July 2, 2014 (79 FR 37646). At that time, EPA approved revisions to Indiana's NSR and PSD regulations at 326 IAC 2-2-1 and 326 IAC 2-2-4 and amended the list of EPA approved Indiana regulations at 40 CFR 52.770(c). In the final rule published in the Federal Register on July 2, 2014 (79 FR 37646), on page 37649, EPA mistakenly perpetuated the error that originated in the October 29, 2012 approval (77 FR 65478): it omitted the previous September 28, 2011 approval (76 FR 59899) of those Indiana SIP rules in their entirety. EPA also did not change the incorrect citation of 326 IAC 2-2-4(b)(2)(A)(vi), as was stated in the Preamble. Furthermore, also on July 2, 2014 (79 FR 37646), EPA approved revisions to the Indiana SIP regarding Indiana's opacity rule at 326 IAC 5-1-

5(b). On page 37649, EPA made a codification error at 40 CFR 52.770(c) in which the list of remaining approved portions of 326 IAC 5-1-5(b) from a previous November 8, 1998 rulemaking (67 FR 46589) were not updated.

This action amends the regulatory text to correct these errors. Section 553 of the Administrative Procedure Act, 5 U.S.C. 553(b)(B), provides that, when an agency for good cause finds that notice and public procedure are impracticable, unnecessary or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for public comment. We have determined that there is good cause for making today's rule final without prior proposal and opportunity for comment because we are merely correcting incorrect citations in previous actions. Thus, notice and public procedure are unnecessary. We find that this constitutes good cause under 5 U.S.C. 553(b)(B).

Statutory and Executive Order Reviews

Under Executive Order (E.O.) 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and is therefore not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to E.O. 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action is not an E.O. 13771 (82 FR 9339,

February 2, 2017) regulatory action because this action is not significant under E.O. 12866. Because the agency has made a "good cause" finding that this action is not subject to notice-and-comment requirements under the Administrative Procedures Act or any other statute as indicated in the Supplementary Information section above, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C 601 *et seq.*), or to sections 202 and 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104-4). In addition, this action does not significantly or uniquely affect small governments or impose a significant intergovernmental mandate, as described in sections 203 and 204 of UMRA. In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by E.O. 13175 (65 FR 67249, November 9, 2000). This rule will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of governments, as specified by E.O. 13132 (64 FR 43255, August 10, 1999). This rule also is not subject to E.O. 13045

(62 FR 19885, April 23, 1997), because it is not economically significant.

This technical correction action does not involve technical standards; thus the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. The rule also does not involve special consideration of environmental justice related issues as required by E.O. 12898 (59 FR 7629, February 16, 1994). In issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct, as required by section 3 of E.O. 12988 (61 FR 4729, February 7, 1996). EPA has complied with E.O. 12630 (53 FR 8859, March 15, 1998) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order. This rule does not impose an information collection burden under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act (5 U.S.C. 801 *et seq.*), as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress

and to the Comptroller General of the United States. Section 808 allows the issuing agency to make a rule effective sooner than otherwise provided by the CRA if the agency makes a good cause finding that notice and public procedure is impracticable, unnecessary or contrary to the public interest. This determination must be supported by a brief statement. 5 U.S.C. 808(2). As stated previously, EPA had made such a good cause finding, including the reasons therefore, and established an effective date of **[insert date of publication in the Federal Register]**. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. This correction to 40 CFR 52 for Indiana is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: February 14, 2018.

Cathy Stepp,
Regional Administrator, Region 5.

Accordingly, 40 CFR part 52 is corrected by making the following correcting amendments:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

2. In § 52.770, the table in paragraph (c) is amended by:

a. Under "Article 2. Permit Review Rules", "Rule 2. Prevention of Significant Deterioration Requirements", revising the entries for 2-2-1 "Definitions" and 2-2-4 "Air quality analysis; requirements"; and

b. Under "Article 5. Opacity Regulations", "Rule 1. Opacity Limitations", revising the entries for 5-1-5 "Violations".

The revisions read as follows:

§ 52.770 Identification of plan.

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(c) * * *

EPA-APPROVED INDIANA REGULATIONS

Indiana citation	Subject	Indiana effective date	EPA approval date	Notes
* * * * *				
Article 2. Permit Review Rules				
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Rule 2. Prevention of Significant Deterioration (PSD) Requirements				
2-2-1	Definitions	3/16/2011	9/28/2011, 76 FR 59899	(a) through (e), (f) (2) through (f) (3), (g) through (cc), (dd) (2) through (dd) (3), (ee) (1) through (ee) (2), (ff) (1) through (ff) (6), (gg) (1) (A) through

				(gg) (1) (B), (gg) (2) through (gg) (3), (hh) through (rr), (ss) (2) through (ss) (6), (tt) through (vv), (ww) (1) (A) through (ww) (1) (E), (ww) (1) (G) through (ww) (1) (W), (ww) (2), (xx) through (aaa).
2-2-1	Definitions	7/11/2012	10/29/2012, 77 FR 65478	(dd) (1), (ff) (7), (ss) (1), (ww) (1) (F) and (ww) (1) (G) only.
2-2-1	Definitions	7/11/2012	7/2/2014, 79 FR 37646	(f) (1), (ee) (3), and (gg) (1) (C) only.
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2-2-4	Air quality analysis; requirements	3/16/2011	9/28/2011, 76 FR 59899	(a), (b) (1), (b) (2) (A) (i) through (b) (2) (A) (iv), (b) (2) (A) (vi) through (b) (2) (A) (xiii), (b) (2) (B), (b) (3), (c) (1) through (c) (3), (c) (5) through (c) (7).
2-2-4	Air quality analysis; requirements	7/11/2012	10/29/2012, 77 FR 65478	(b) (2) (A) (vi) only.
2-2-4	Air quality analysis; requirements	7/11/2012	7/2/2014, 79 FR 37646	(c) (4) only.
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Article 5. Opacity Regulations				
Rule 1. Opacity Limitations				
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5-1-5	Violations	6/11/1993	6/15/1995, 60 FR 31412	(a) and (c).
5-1-5	Violations	11/8/1998	7/16/2002, 67 FR 46589	(b) (1) (A) through (b) (1) (D), (b) (1) (F) through (b) (1) (I), (b) (2) through (b) (11).
5-1-5	Violations	7/11/2012	7/2/2014, 79 FR 37646	(b) (1) (E) only.
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